model. Further manipulation of the Hatfield model input sheets is required to obtain these results.[30]

29. Any proxy model used to calculate universal support levels should be able to provide estimates of support at various geographic levels with a state, such as on a study area, wire center, density zone, or CBG basis. These estimates would enable the Commission and state commissions to compare alternative decisions regarding support areas, and it is necessary so that we will be able to establish a specific, predictable and sufficient mechanism to preserve and advance universal service.

[30] Letter from Richard N. Clarke, AT&T, to William F. Caton, FCC (dated Sept. 10, 1996).

APPENDIX G
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Statement by
Federal Communications Commission
Chairman Reed Hundt
November 7, 1996

Today America takes a major step forward in our quest to bring the benefits of the Information Age to every person in the country.

Carrying out the mandate given to us by Congress in the Telecommunications Act of 1996, a joint board of federal and state commissioners today voted unanimously to urge the full FCC to adopt a rule that makes affordable, high-quality telecommunications services available to all children and teachers in every classroom and library.

The recommendation asks the FCC to create a federal-state, country-county, public-private partnership. Schools and libraries will pay something for communications technology, but the telecommunications companies will together meet them more than halfway in funding these partnerships.

By providing discounts on all telecommunications services, on internal wiring, as well as on Internet access, the bipartisan Joint Board on Universal Service has shown its dedication to ensuring schools get the full spectrum of tools they need.

Schools will be able to connect every single classroom to the Information Highway. The ramp will be a high-speed, high-bandwidth, cutting-edge connection. The discounts, tailored to each school's individual level of need, will make building and maintaining the ramp truly affordable for every school.

In the 21st Century, technology literacy will be a necessity, not a frill. To give every child in America a true opportunity at succeeding and fulfilling his or her potential, affordable access to information technology and communications services is the new ground zero. Today, we begin working to make that opportunity a reality so that the economic divide between rich and poor is not exacerbated by a digital divide between technology haves and have-nots.

Discounts will also be provided for the first time to rural health-care providers, so that they can use modern telecommunication services to provide their patients with better, faster, more efficient care. The new guidelines also reaffirm and strengthen the commitment to provide telecommunication services to low-income consumers and rural or hard-to-reach consumers. In designing the mechanisms to guarantee this service, we have maintained our firm commitment to designing policies that enhance competition.

My thanks and compliments go to the President and the Vice President for their leadership as well as to Senators Snowe, Rockefeller, Exon and Kerrey who were instrumental in making schools, libraries and rural health care providers a priority in our new telecommunications law. My thanks go to all the other bipartisan senators, congressmen and other leaders who supported this initative.

We have a lot of work ahead of us as we finalize the guidelines in the next few months. But the support and dedication of the joint board members in reaching this unanimous decision today sets us on the path to have schools and libraries that are not only institutions of learning, but true beacons that will bring the promise and potential of the 21st Century to every man, woman and child in the country.

November 7, 1996

SEPARATE STATEMENT
OF
COMMISSIONER SUSAN NESS

Re: Federal-State Joint Board on Universal Service Recommended Decision (CC Docket No. 96-45)

Today's decision is another milestone in the implementation of the Telecommunications Act of 1996. The task at hand is as challenging as any that Congress assigned under this landmark legislation. Our job is to construct a new universal service regime that makes subsidies more explicit, more targeted, more efficient, and more compatible with competition, even as the vision of universal service is boldly extended.

The new legislation seeks to make quality services available at affordable rates to all Americans. Congress chose competition as the surest route to that end. Yet the law also mandates special measures to protect low-income consumers and those living in rural, insular, and high-cost areas. Congress also enlarged the universal service program to encompass schools, libraries, and rural health care providers.

Congress told us to "thoroughly review the existing system of Federal universal service support." We have done what Congress directed and determined that our current system of support for universal service is not sustainable. It relies on billions of dollars (no one can say how many) of implicit subsidies. Access charges, vertical services, and business lines, for example, are all priced well in excess of cost, and some of the excess helps to keep local phone rates low. Competitors, naturally, will target the high-margin services, and these sources of subsidies will inevitably diminish over time.

Our current system is not competitively neutral. The obligation to support universal service is not fairly distributed, and neither is the opportunity to receive universal service support. To effectuate the will of Congress, new mechanisms are necessary to expand the base of carriers who fund universal service and to expand eligibility to receive universal service support.

These challenges call for a comprehensive restructuring of universal service support mechanisms. Today's Recommended Decision is a promising start in that endeavor.

Principles

Throughout our deliberations, we have adhered to the principles Congress enumerated in the legislation. We have also taken the opportunity created by the law to add "competitive neutrality" as a guiding principle of universal service policymaking. This decision is consistent with the intentions underlying Section 254 and the legislation as a whole.

Definition of universal service

As we defined the services to be supported, we were mindful that the funds for universal service ultimately come from consumers; and so we have resisted entreaties for an expansive definition. The menu of services initially to be supported for high-cost areas and low-income consumers is limited to those services that most consumers already receive. We look to competitive supply and consumer demand to establish higher levels of service, which the Joint Board can take into account as it reviews the definition of supported services in future years.

Prudence also requires that (except as directed in the case of schools, libraries, and rural health care providers) we limit universal service support to single-line residences and single-line businesses. There is no reason why ratepayers as a whole should bear the burden of supporting multiple lines to a single residence, single lines to second homes, or multi-line businesses.

Low-income consumers

Charges for telephone service appear to be generally affordable throughout the nation. Subscribership is at 94 percent overall. The problem of access appears to be concentrated at the lower end of the income scale, and this necessitates certain focused changes in our low-income programs. Extending these programs to states that do not have them, encouraging the deployment of toll limitation services, and prohibiting disconnection for nonpayment of toll charges of Lifeline customers should, in the aggregate, promote the goal of increased telephone subscribership by low-income consumers.

High-cost support

We have made good progress in addressing the challenge of high-cost areas, but much remains to be done. We have achieved consensus on the important principle that support should be based on forward-looking economic costs. We have established principles and procedures for further development and evaluation of cost proxy models. We have agreed to bifurcate the treatment of rural and non-rural local exchange carriers, recognizing that rural carriers are more vulnerable to errors that may be caused by the proxy models and that Congress envisioned a slower transition to competition in rural areas.

Regrettably, the Joint Board has failed to address the question whether the funding for federal programs for high-cost support -- as well as low-income support -- will be based on both the *intrastate* and *interstate*

revenues of carriers that provide interstate telecommunications services, or only on their *interstate* revenues. This necessarily draws into question the ability of the federal fund to support the difference between cost (proxy or embedded) and a reasonable benchmark; an interstate-only approach inevitably leads to a much higher benchmark.

In my view, the federal program must be based on both intra- and interstate revenues and provide the full measure of support needed to meet the benchmark. The alternative is to risk that consumers, small businesses, and carriers in high-cost states will be left without the support Congress intended. This cannot be squared with Congress's decision to write a clear commitment of universal service into federal law.

In addition, I can see no reason why interstate revenues alone should be the source of all new explicit subsidies, given that a portion of today's implicit subsidies comes from local business service, vertical services, and intrastate access. And the principle of competitive neutrality should steer us away from an approach that would disproportionately burden any category of carrier (as, for example, would occur with wireless companies under an interstate-only approach).

Schools and libraries

The boldest, most visionary section of the legislation requires us to promote the connection of schools and libraries to the Information Superhighway. As Congress saw clearly, the Industrial Age is giving way to the Information Age. To prepare our nation for life in the 21st Century, communications and information tools must be readily available to all American students and communities.

There is a substantial danger that disparities in access to these tools will widen the economic and cultural divide between the rich and the poor. I am delighted that the Joint Board has recommended that we address this issue through aggressive discounts that enable poorer schools and those in rural areas to obtain the services they need.

Learning occurs in the classroom, not the principal's office. I share President Clinton's hope for a "day when computers are as much a part of the classroom as blackboards and we put the future at the fingertips of every American child."

So, too, does the Congress.

That's why the legislation explicitly promotes the connection not just of "schools," but of "classrooms." And we are on firm legal and policy ground in recommending universal service support for internal connections, whether or not they are "telecommunications services." A contrary construction, which would permit support of wireless connections but not wired ones, would be completely at odds with the principle of competitive neutrality. Technology choices should be made by schools and libraries, not by regulators.

Our proposal for schools and libraries reflects a careful compromise among all eight members of the Joint Board. All of us brought different perspectives to the discussion, but we ultimately forged consensus on the proposal we announce today.

The proposal is fair to all. It is simple to administer. It provides schools with flexibility to choose the services they need. It is competitively neutral. It is fiscally responsible and creates the right economic incentives to both encourage participation and discourage inefficient consumption.

I hope that schools and libraries seize this exciting opportunity. Over the next four years, if communities are willing and able to shoulder their share of the financial responsibility, all of the classrooms in the country can be connected, to each other and to the world beyond. A relatively small investment in connecting our schools and libraries to cyberspace will be repaid many times over in the 21st century.

November 7, 1996

Separate Statement of

FCC Commissioner Rachelle B. Chong

Concurring in Part, Dissenting in Part

Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45

A laudable section of the Telecommunications Act of 1996 (1996 Act) is the codification of the Commission's policy to promote universal telephone service for all Americans. Over the decades, the telephone industry and federal and state regulators have worked closely together to construct and maintain one of the premier telecommunications networks in the world. Our nation's telephone system delivers reliable, high quality telephone services at affordable rates to nearly all Americans. Our past system of universal service policies, however, relied on a patchwork quilt of implicit and explicit subsidies both at the federal and at the state levels that were the product of a monopoly environment. While the prior universal service system provided a high level of subscribership, it was achieved at the expense of these implicit and explicit subsidies that distorted the marketplace and sent incorrect economic signals.

As the telecommunications industry undergoes vast changes due to technology advances, convergence, and the rapid introduction of competition at every level of the marketplace, we face new challenges in ensuring that telephone service continues to reach as many Americans as possible. This Joint Board and the Commission have been charged with the important task of preserving and advancing universal service[31] in the new pro-competitive de-regulatory telecommunications market mandated by the 1996 Act. One of the key tasks of this Joint Board is to identify all implicit universal service subsidies and to either remove them or make them explicit. We must also take steps to ensure competitive neutrality in our new universal service policies.

[31] 47 U.S.C. § 254(b).

This Joint Board has a diverse membership. It is composed of federal and state regulators and a consumer advocate. Regulators all over the country are in the first phase of implementing the many major structural changes in the market mandated by the 1996 Act. In these transitional times, it has been a formidable challenge to fashion a system of universal service support mechanisms that will achieve the principles Congress set forth for us.[32]

Despite this challenge, we have managed to forge a consensus on nearly all of the issues. I congratulate all of my colleagues and the multitude of federal and state staffers who have worked on this significant achievement. I also thank the many interested parties, particularly the industries, the Administration, and especially the education and health care communities, who filed many helpful comments with us. I thank them for their efforts in thinking very creatively about universal service in a new competitive era.

I. Proxy Models for High Cost Support

I recognize that we have not been able to reach closure on a few issues, the most significant one being the proxy models for the high cost support program. On this issue, I agree with my colleagues that additional work needs to be done to improve the proxy models for non-rural carriers that are on the record. I note that the Commission must have a recommendation from the Joint Board on any remaining issues in a timely enough manner to meet our May 8, 1997 statutory deadline for implementation of our final universal service rules.

While a few proxy models show promise, none of them yet makes my heart sing. I am pleased that the federal and state members of the Joint Board have agreed to continue to work in a cooperative, consensus-oriented manner to achieve our common goal of a workable proxy model. I urge the industry to work closely with us in the coming months to help develop a properly-crafted proxy model that can be used to calculate the forward-looking economic costs for specific geographic

[32] Section 254(b) sets forth the principles that have guided me in my work: quality services at just, reasonable and affordable rates; access to advanced telecommunications and information services in all regions of the nation; access to telecommunications and information services in rural, insular, and high cost areas and for low income persons; equitable and nondiscriminatory contributions by telecommunications service providers; specific, predictable and sufficient support mechanisms to preserve and enhance universal service; and access to advanced telecommunications services for certain schools, health care providers and libraries.

areas, and be used as the cost input in determining the level of support a carrier may need to serve a high cost area.

In recognition of their special needs and in order to minimize any disruption or adverse impact of the change on rural carriers, I have agreed to a slower phase-in of proxy models for rural telephone companies. I join my colleagues in the belief that a proxy model indeed can be developed that is appropriate for all carriers, non-rural or rural. I recognize, however, that unusual circumstances can exist in some areas -- for example, insular areas or in rural Alaska -- and as a result, I remain flexible as to those carriers facing truly unique situations.

II. Support for Low Income Consumers

This Joint Board has recognized that lower levels of subscribership for low income customers exist and has taken steps to improve this situation. I believe that we have appropriately modified our existing Lifeline Assistance ("Lifeline") and Lifeline Connection Assistance ("Link Up") programs to make them consistent with the general principles contained in Section 254(b). I am pleased that the modified programs do provide low income universal service support "in all regions of the Nation" and through explicit, competitively-neutral support mechanisms.[33]

We also have borne in mind Section 254(i)'s requirement that rates for universal service be "just, reasonable, and affordable." In evaluating our Lifeline and Link Up programs, we have been mindful to make only the changes necessary to make these successful programs competitively neutral and consistent with Congress' universal service principles. I am especially pleased that we will be extending these programs to every state and territory in the Nation, and believe that they will help link up some of the few remaining Americans who are not connected to the telecommunications network.

III. Insular Areas and Alaska

The 1996 Act directed us to ensure that consumers in insular areas and Alaska have access to telecommunications and information services, including interexchange services, and advanced telecommunications and information services

[33] 47 U.S.C. § 254(b)(2).

that are reasonably comparable to those services provided in urban areas, and at reasonably comparable rates to urban areas. I did my homework on some of these issues on a site visit to Alaska, where I learned of the many challenges faced by providers in insular and remote areas. Severe weather conditions (permafrost, hurricanes, and tropical storms), the high costs of shipping equipment, the shortened construction periods, as well as the high cost of some telecommunications services due to distance sensitive charges are just some of the many difficulties that these carriers face every day. Moreover, consumers who live in these areas also may not have available all telecommunications services available in the continental United States. Those who do have access to those services often pay significantly higher rates than those paid in urban areas for the same services. Finally, the sheer distance of insular areas to the closest urban area can pose serious problems for the health care providers. I learned that the availability of tele-medicine applications may be of huge benefit to such rural health care providers, and may well save lives.

In light of these challenges, I am pleased that we have made a variety of recommendations to promote a higher level of connection to the telecommunications network in these areas. For example, our new schools/libraries and health care programs will be of special benefit for those living in these areas as they take advantage of distance learning and tele-medicine applications. We ensure that Lifeline and Link Up programs will be extended to these areas if not already present. We have also recognized that affordable access may be an issue in insular areas and some parts of Alaska where costs are high and incomes are low. In determining "affordability," we have decided to not only look at subscribership levels, but to also consider income levels, population densities and the scope of the local calling area, all of which may impact affordability.

Finally, we recommend that rural carriers serving high cost insular areas, as well as rural carriers serving high cost areas in Alaska, shall continue to receive universal service support based on their embedded costs until we can develop a proxy model that best acknowledges their unique circumstances. In sum, I believe that these and other policies we adopt should greatly improve the quality and affordability of services available to consumers in these areas.

IV. Schools and Libraries

While I am supporting the schools and libraries portion of this recommendation, I write separately to express some reservations about the Joint Board's recommendation that the Commission support funding of intra-school and intra-library internal connections (traditionally referred to as "inside wire" in the wireline telephone context). Funding intra-school and intra-library internal connections is a worthy goal, however, we must recognize that the price tag for this unmandated portion of the program is in the billions of dollars.[34] This will have impacts on all telecommunications users' bills.

I support significant discounts for eligible schools and libraries for telecommunications services and Internet access. Nonetheless, I am concerned about the inclusion of intra-school and intra-library internal connections. Including such costs may have unintended market consequences and may not be fiscally prudent given other universal service obligations that are mandated by the 1996 Act. Moreover, in my view the statute does not mandate funding for internal connections.

A. The Application of Discounts to Internal Connections May Have Unintended Market Consequences

I am concerned that the inclusion of internal connections in the universal service funding mechanism may be unwise as a matter of public policy because it may have unintended market consequences. We have to recognize the historical regulatory differences between internal connections and services. Although most telecommunications services continue to be regulated at the state and local level, internal connections have been unregulated for a number of years and the market for such connections is highly competitive. The provision of deep discounts for these unregulated facilities may unintentionally skew the efficient working of the market by inducing a library or school to choose a less efficient internal connection alternative.

B. The Inclusion of Internal Connections Raises Fiscal Concerns

I am also concerned that inclusion of internal connections will cause the fund to balloon to a level much higher than may be fiscally prudent, at the expense of all consumers of telecommunications services. The cost of internal connections is quite

[34] *See infra*, page 5.

significant. Citing estimates by McKinsey and Company, Nynex reports that the undiscounted cost of connecting schools will be $5.025 billion dollars in initial costs and $410 million per year for annual recurring costs, based on deployment of the partial classroom model over five years. These figures do not include private schools.[35] EDLINC relies on the KickStart Initiative and cites initial undiscounted costs for schools of up to $6.11 billion and undiscounted annual operation and maintenance costs of $560 million, based on deployment of the McKinsey "full classroom" model over ten years.[36]

This multi-billion dollar price tag will be paid by telecommunications carriers who will likely recoup this cost by raising their rates. I believe that we need to carefully consider the impact on all consumers before we expand the scope of the funding obligation. In fulfilling our universal service obligations, we must be mindful of our concurrent obligation to ensure that telecommunications services are "available at just, reasonable, and affordable rates.[37] For this reason, I have concerns about expanding the scope of our interpretation of universal service to include "extras" like internal connections for schools and libraries, until we are sure that we can fund the "bread and butter" telecommunications services that are mandated by the plain language of the statute. Following Congress' explicit direction, I believe that we need to make as our first priority the provision of support for those living in high cost, rural, and insular areas and for low income consumers.[38] Given this directive and the substantial fiscal commitment of the program we recommend today, I believe that fiscal prudence dictates that we proceed cautiously as to internal connections to ensure that our primary tasks are fulfilled.

C. *Section 254 Does Not Mandate that Discounts Be Provided for Internal Connections*

[35] NYNEX Further Comments at 7 (*citing* McKinsey, at 57). The McKinsey "partial classroom" model assumes one computer for every five students in half of the classroom and a T-1 connection. McKinsey, at 23.

[36] EDLINC Further Comments at 13. *See also* U.S. National Committee on Libraries and Information Services (USNCLIS) Further Comments at 3 (estimates of intra-library inside wire costs for 8,929 public libraries can be extrapolated from USNCLIS comments to be in the range of $22.5 million to $525.7 million).

[37] 47 U.S.C. § 254(b)(2)

[38] 47 U.S.C. § 254(b)(3).

With this in mind, I point out that Section 254 does not *mandate* that discounts be provided for internal connections. In interpreting Section 254, one should note that there is a difference between (1) the telecommunications and information services repeatedly referenced in the statute, and (2) telecommunications facilities, such as intra-school internal connections ("inside wire")[39] and "customer premises equipment" (such as computer modems, computers, PBXs, or telephone sets). Inside wire, for example, is "the telephone wires within a customer's home or place of business that are on the customer's side of the point of intersection between the telephone company's communications facilities and the customer's facilities."[40] From this language, it is apparent that inside wire is not a "service" within the meaning of the 1996 Act, but, consistent with our prior decisions and policy, a facility.

It is clear that the portion of the statute which mandates discounts is limited to services. Section 254(h)(1)(B) -- which deals specifically with schools and libraries -- provides:

> All telecommunications carriers serving a geographic area, shall, upon a bona fide request for any of its *services* that are within the definition of universal service under subsection (c)(3), provide such *services* to elementary schools, secondary schools, and libraries for educational purposes. . . . The discount shall be an amount that the Commission, with respect to interstate *services*, and the States, with respect to intrastate services, determine is appropriate and necessary to ensure affordable access to and use of such services by such entities.[41]

The statute refers repeatedly to services and fails to mention internal connections or inside wire. Congress' references to services continues throughout Section 254. Section 254(b)(6), for example, states: "Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced

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[39] Due to our efforts to be competitively and technologically neutral, we refer to inside wire as "internal connections" to recognize the many wireless providers who are entering the telephone market.

[40] *See* Nat'l Ass'n of Regulatory Util. Comm'rs v. F.C.C., 880 F.2d 422, 425 (D.C. Cir., 1989).

[41] 47 U.S.C. § 254(h)(1)(B) (emphasis added).

telecommunications *services* as described in subsection (h)."[42] Similarly, Section 254(b)(1) refers to "[q]uality *services*;" Sections 254(b)(2) and (b)(3) refer to access to "advanced telecommunications and information *services*;" and Section 254(b)(4) refers to "[a]ll providers of telecommunications *services*."

Section 254(c), entitled "[d]efinition," explicitly limits universal service support to telecommunications services. This subsection provides:

> Universal service is an evolving level of telecommunications *services* that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and *services*. The Joint Board in recommending, and the Commission in establishing, the definition of the *services* that are supported by Federal universal service support mechanisms shall consider the extent to which such telecommunications *services* -- (A) are essential to education, public health or public safety . . . "[43]

Notably, Congress mentioned neither internal connections nor customer premises equipment in this subsection.

In sum, due to the sheer weight of the number of references to only services in the statutory language, I do not agree with those who believe that internal connections must be included as "services" eligible for discounts pursuant to Section 254(h)(1)(B).

I acknowledge, however, that Section 254(h)(2)(A) can be read to provide the Commission with discretion to fund internal connections. One way for classrooms to have access to advanced telecommunications and information services is for computers in each classroom to be connected to a telecommunications network. However, defining Section 254(h)(2) in such a broad way may be a slippery slope.

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[42] 47 U.S.C. § 254(b)(6) (emphasis added).

[43] 47 U.S.C. § 254(c)(1)(A) (emphasis added). *See also* Section 254(c)(3) (granting the Commission the authority to designate additional telecommunications *services* for schools, libraries and health care providers); Section 254(c)(3) provides in relevant part: "(3) Special *services*.-- In addition to the *services* included in the definition of universal service under paragraph (1), the Commission may designate additional *services* for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection (h)."

To truly have "access" to advanced telecommunications and information services in their classrooms, the students will need more than internal connections; they will also need computers, computer modems, software and telephones. Just because the hardware, software and telephone equipment are necessary for "access" to the classrooms of services, it does not mean that they are properly the subject of universal service funding.

The recommendation we make today relies on this broad interpretation of Section 254(h)(2) to support a funding mechanism for internal connections. Unlike Section 254(h)(1)(B) which orders the Commission to provide discounts for telecommunications services, Section 254(h)(2) gives the Commission full discretion to decide whether to fund internal connections. The Joint Board in our recommended decision has decided to exercise this discretion to fund internal connections, and I have reluctantly gone along only because a firm cap has been placed on the fund expenditures. As noted above, I believe that we should be cautious about expanding the scope of the covered "services" until we are sure we have met our mandatory statutory obligations for all groups designated in the Act and have sufficient funds to do so.

V. *Health Care*

I also support the Joint Board's recommendation that the Commission seek additional information on the telecommunications needs of eligible rural health providers and on the costs of these services, prior to adopting final rules. While we received a very helpful report from the Advisory Committee on Telecommunications and Health Care, I remain concerned that our record on this important issue is sparse.

I am intrigued by the Advisory Committee's recommendation that we recommend a specific level of telecommunications bandwidth capacity to support eligible rural health care providers (allowing health care providers to choose among any telecommunications service supporting a capacity of up to and including 1.544 Mbps or its equivalent). I urge parties to provide the Commission with further comment on the Advisory Committee's recommendations. The Advisory Committee has told us that the clear benefit of such an approach would be that data and medical images could be transmitted at speeds high enough to make transmission time reasonable and at transmission capacities broad enough to transmit accurately

high resolution radiological images and make use of examination devices such as electronic stethoscopes. If such a bandwidth capacity approach is adopted, what impacts might it have on rural carriers who may be forced to upgrade their networks in order to deliver that level of telecommunications bandwidth capacity to a single or a few health care providers?

I am pleased however that we are able to make a number of recommendations on other health care issues, including the rural/urban comparable rate issue, clarifying the offset, and the bona fide request process.

VI. Adjustment in the Subscriber Line Charge Cap

Although I support not increasing the existing cap on the subscriber line charge ("SLC"), I respectfully dissent from the Joint Board's recommendation today insofar as it recommends that the Commission should lower the SLC for primary residential and single-line business lines. I oppose this recommendation on both procedural and policy grounds.

It is my view that, as a procedural matter, the apportionment and/or adjustment of non-traffic sensitive interstate loop costs between the subscriber line charge ("SLC") and the carrier common line charge ("CCLC") should be addressed by the Commission in the context of a comprehensive review of our interstate access charge rules. The access charge proceeding is the proper forum to both analyze and recommend any modifications to the current recovery mechanisms for interstate loop costs. I fear that today's recommendation to lower the existing SLC cap may, in effect, send the wrong signal that we are prejudging this issue before commencing our access charge reform proceeding. I believe the Commission set forth the right signal in our recent Local Competition Order, when we expressly recognized the close interrelationship between access charge and universal service reform and espoused our commitment to "complete access reform before or concurrently with a final order on universal service."[44]

[44] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 95-185, First Report and Order, FCC 96-235, 61 FR 45476 (Aug. 29, 1996) at para. 8. (*Local Competition Order*).

In addition, I believe that the Joint Board's recommendation to reduce the SLC is bad economic policy that contradicts the Commission's long standing goal to promote economic efficiency and cost causation. The SLC is a non-traffic sensitive charge that recovers non-traffic sensitive costs in the most economically efficient manner from end users.[45] Any policy that, in essence, shifts or perpetuates the recovery of these costs from interstate providers can, at best, be described as an inefficient "shell game" on consumers. It is a shell game because in the competitive interstate telecommunications market, service providers will have to pass these costs along to consumers in the form of either flat rated charges or higher rates on long distance bills. Any potential savings that consumers would receive from a SLC reduction on their local phone bills may well be offset by an increase to their long distance bills. Accordingly, I respectfully dissent from this portion of the item.

VII. Administration Issues

I support the Joint Board's recommendation that we base contributions on both interstate and intrastate telecommunications revenue of carriers providing interstate services for the schools, libraries, and health care universal support program. In reading Section 254 in its entirety, Congress clearly intended that a national universal service system be set up by the Commission, after a recommendation by a Joint Board containing state and consumer representatives. Section 254(d) provides that "every telecommunications carrier that provides interstate telecommunications services" must contribute, but does not in any way limit the Commission from setting up a reasonable methodology to calculate an interstate carrier's contributions to the program. If Congress had intended that the system be funded entirely by contributions based solely on *interstate* revenue of interstate carriers, I believe that it would have been more specific.

My reading of Section 254(f) does not dissuade me from this conclusion. Section 254(f) makes it clear that a State is free to adopt its own universal service regulations so long as they are not inconsistent with the Commission's universal service rules. Congress provided that should such a state system be set up, every telecommunications carrier providing intrastate services shall contribute. Congress

[45] *See generally* Alfred E. Kahn & William B. Shew, Current Issues in Telecommunications Pricing: Pricing, Yale J. on Reg. 191 (1987); *see also Local Competition Order* at para. 744.

did not mandate that only intrastate revenues be used in a contribution methodology, but clearly gave the States the discretion to develop a methodology "in a manner determined by the State."[46]

There is no question that due to the additional competition that will be injected in every telecommunications market as a result of the 1996 Act, there will be a blurring of lines between interstate and intrastate revenues. Local exchange carriers have announced plans to enter the long distance market; interexchange carriers and cable companies have announced plans to enter the local telephone market. I believe that it will become increasingly difficult to distinguish between interstate revenues and intrastate revenues in the future, because this distinction is a backwards looking one based on a monopoly era. Thus, for pragmatic reasons and for equity reasons, I believe our methodology on how to calculate contributions is reasonable and fair.

On another administration issue, I strongly endorse the Joint Board's recommendation that the Commission appoint a universal service advisory board to designate a neutral, third-party administrator. The Joint Board has set forth some explicit criteria as to the USF fund administrator that will be chosen by the advisory board.[47] I urge the advisory board to treat this criteria as mandatory. It is my view that a lack of affiliation with any particular set of telecommunications providers and no direct interest in support mechanisms is essential for the fund administrator to function as a neutral arbitrator among all of the various service providers that must contribute to support mechanisms. I believe even the appearance of bias by an administrator could undermine the integrity of the program.

VIII. Total Size of the Universal Service Fund

Finally, I strike a note of caution. I have serious concerns about the total size of the universal service program that the Commission will put in place next May. At this time, with both the high cost and health care portions of our universal scheme

[46] 47 U.S.C. § 254(f).

[47] Chosen administrator, including its Board of Directors, must be neutral and impartial, not advocate specific positions to the Commission in non-administration-related proceedings, not be aligned or associated with any particular industry segment, and not have a direct financial interest in the support mechanisms established by the Commission.

uncompleted, we are not able to get a handle on the total size of the universal service fund pursuant to the broad framework that we set up today. Preliminary data shows that this may result in a multi-billion dollar program, part of which replaces our more modest existing universal service system and part of which replaces the current implicit/explicit subsidy system of the past.

The final price tag for the federal universal service program could well be in the range of billions of dollars. Two competing interests must be balanced here: the advancement of universal service goals versus the impact that a huge fund may have on the bills of telecommunications users, particularly low income individuals. *Let us make no mistake about who will foot the bill for this universal service program. It is not the telecommunications carriers, but the users of telecommunications services to whom these costs will be passed through in a competitive marketplace.* Thus, I reserve all judgment about whether the framework we have set forth today is a wise one, until I obtain and study final estimates of the total size of the fund. I remain cognizant that any program we put in place must contain "specific, predictable and sufficient" mechanisms.[48]

[48] 47 U.S.C. § 254(d). Any eligible telecommunications carrier may provide universal services, and receive support from the new fund for such services. 47 U.S.C. § 214(e).

Separate Statement of Commissioner Julia Johnson and Chairman Sharon L. Nelson

on

Recommended Decision of the Federal-State Joint Board on Universal Service

Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45

November 7, 1996

While we fully support the Recommended Decision of the Federal-State Joint Board on universal service, the work of the Joint Board has just begun. The months between now and the date of the Federal Communications Commission's (FCC) adoption of rules constitute the next intensive phase, and the joint staffs as well as the Joint Board members will need to work together to ensure that the policies endorsed by the Recommended Decision will accomplish its stated goals. However, the subsequent adoption and implementation of the FCC's order will commence what will need to be an equally vigorous oversight of the universal service programs